

### **REMARKS**

The following remarks are submitted to address the above amendments and issues raised in the Official Action mailed November 25, 2003.

A Request for Extension of Time, and payment therefor, to extend the period for filing a response to this Official Action for one month to March 25, 2004, is filed herewith.

Upon entry of the foregoing amendments, claims 1-67 are now pending in this application. Claims 1-43, 48, 50, 51, 56, 58, 59, 64, 66, and 67 stand withdrawn from consideration. Claims 44-47, 49, 52-55, 57, 60-63, and 65 stand rejected under 35 USC § 103(a), as being unpatentable over EP 0581274 to Kamata et al. in view of EP 0436729 to Yamato et al.

No new matter has been added. Support for requested amendments can be found in the original claims and throughout the present specification and drawings. Applicant respectfully requests consideration of the application in light of the above amendments and the following remarks.

#### **Claims 44-47, 49, 52-55, 57, 60-63, and 65 — 35 USC § 103(a)**

The rejections of claims 44-47, 49, 52-55, 57, 60-63, and 65 under 35 USC § 103(a) as being unpatentable over Kamata et al. in view of Yamato et al. are respectfully traversed.

Claim 44 of the present invention, as amended, claims “[a] textile material having microcapsules applied thereto, the microcapsules applied to the textile material by: contacting the textile material with the microcapsules; followed by dispersing the microcapsules around and through the textile material with a dispersant; and then followed by adhering the dispersed microcapsules to the textile material with a binder, wherein the microcapsules are evenly

distributed around and through the textile material so as to be evenly applied to the textile material.”

Claim 52 of the present invention, as amended, claims “[a] textile material having microcapsules applied thereto, the microcapsules applied to the textile material by sequential steps comprising . . . physically dispersing the microcapsules in the bath to contact the textile material with the microcapsules; dispersing the microcapsules around and through the textile material with a silicone-based dispersant; . . . [and] adding a binder to the bath to adhere the dispersed microcapsules to the textile material . . . wherein the microcapsules are thoroughly dispersed and evenly applied to the textile material.”

Claim 60 of the present invention, as amended, claims “[a] textile material having microcapsules applied thereto, the microcapsules applied to the textile material by sequential steps comprising . . . stirring the bath for three minutes to physically disperse the microcapsules and contact the textile material with the microcapsules; dispersing the microcapsules around and through the textile material with a dispersant, the dispersant being a silicone finish having a cationic charge; . . . [and] adding an acrylic binder having a cationic charge to adhere the dispersed microcapsules to the textile material . . . wherein the microcapsules are thoroughly dispersed and evenly applied to the textile material.” (Claims 44, 52, and 60, as amended.)

The Official Action states that Kamata et al. discloses a textile material which may be formed into a garment and which is placed in a bath with microcapsules which contain a fragrance, and that the microcapsules are taken up by the fabric. The Official Action states that Kamata et al. differs from the claimed invention because Kamata et al. does not teach employing a binder to further fix the microcapsules to the textile fabric, does not teach incorporating a moisturizer into the fabric, and does not teach that the textile is hosiery. The Official Action states that Yamato et al. teaches that a small amount of a binder may be incorporated into the mixture comprising microcapsules which are to be applied to a fabric and that the binder helps to adhere the microcapsules to the fabric. The Official Action states that it would have therefore

been obvious to one of ordinary skill in the art, and one of ordinary skill in the art would have been motivated by the teaching of Yamato et al., to employ a binder in applying the microcapsules to the fabric of Kamata et al. to further enhance the bonding of the microcapsules and the fabric. (Official Action, para. 3.)

The Official Action states that Yamato et al. teaches that microcapsules which are applied to a fabric such as a garment may comprise moisturizers and other skin conditioning agents in addition to fragrant components, and that suitable garments to which such microcapsules could be applied include hosiery. The Official Action states that it would therefore have been obvious to have incorporated a moisturizer in addition to a fragrance in the microcapsules of Kamata et al. and to have applied the microcapsules to hosiery as taught by Yamato et al., motivated by the expectation that doing so would enhance the fabric of Kamata et al. by making it moisturizing in addition to being fragrant and because Yamato et al. teaches that since hosiery is in direct contact with skin, the fragrant, moisturizing microcapsules would be most effective. (Official Action, para. 3.)

As the Official Action points out, “Kamata does not teach employing a binder to further fix the microcapsules to the textile fabric . . . .” (Official Action, para. 3.) Nowhere does either Kamata et al. or Yamato et al. disclose a textile material having microcapsules applied thereto in the sequence of steps as in claims 44, 52, and 60 of the present application, that is, *first* contacting the textile material with the *microcapsules*, *followed by dispersing* the microcapsules around and through the textile material with a dispersant, and *then followed* by adhering the dispersed microcapsules to the textile material with a *binder*. Therefore, Applicant respectfully submits that neither Kamata et al. and Yamato et al. teach each and every element of the invention as claimed in claims 44, 52, and 60, and is each therefore deficient as a reference.

Moreover, the sequence of steps claimed in claims 44, 52, and 60 provides an improved textile material, “wherein the microcapsules are evenly distributed around and through the textile material so as to be evenly applied to the textile material.” Such a textile material avoids the

tendency of materials made with microcapsules introduced in the presence of a binder to adhere only to the first surface of the material contacted by the microcapsule / binder combination. Thus, textile materials according to claims 44, 52, and 60 advantageously provide for more thorough and more even penetration of microcapsules in a textile material. (See, present specification, page 7, line 17 – page 8, line 12.) In contrast, Yamato et al. teaches that “the fibers to be employed in the present invention are preferred to be subjected in advance to a water-repelling pretreatment to prevent permeation of binders into knitting or weaving yarns or interstices of fabrics to stiffen the hand, so that the binder and microcapsules may adhere mainly to the surface of the fabrics”. (Yamato et al., page 6, lines 11-14.) Accordingly, Yamato et al. teaches that a fiber is to be pre-treated to *prevent* thorough permeation of binder and microcapsules in a textile material, which teaches away from the textile material claimed in the present application. Therefore, Applicant respectfully submits that neither of these references provides any suggestion or motivation to combine the references to achieve a textile material as claimed in claims 44, 52, and 60. Neither does the combination of these two references provide any reasonable expectation of success of such a combination to achieve an improved textile material having microcapsules applied thereto as in the present invention. In addition, neither Kamata et al. or Yamato et al. disclose or suggest a textile material made by the sequence of steps as in claims 44, 52, and 60, in combination with a moisturizer, a fragrance, and/or use in a hosiery garment as in the present invention. As a result, claims 44, 52, and 60 of the present invention are not obvious over Yamato et al. in view of Kamata et al. Claims 45-47 and 49 are dependent on claim 44; claims 53-55 and 57 are dependent upon claim 52; and claims 61-63 and 65 are dependent upon claim 60. Accordingly, none of claims 44-47, 49, 52-55, 57, 60-63, and 65 would have been obvious in view of these two references.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 44-47, 49, 52-55, 57, 60-63, and 65 under 35 USC § 103(a).

**CONCLUSION**

Applicant submits that a full and complete response has been made herein to the Official Action and, as such, all pending claims in this application are now in condition for allowance. Therefore, Applicant respectfully requests early consideration of the present application, entry of all amendments herein requested, withdrawal of all rejections, and allowance of all pending claims.

The Office is respectfully invited to contact J. Michael Boggs at (336) 747-7536, to discuss any matter relating to this application.

Respectfully submitted,

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Date

J. Michael Boggs  
J. Michael Boggs  
Reg. No. 46,563

Kilpatrick Stockton LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
(336) 747-7536  
(336) 734-2632 (facsimile)